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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/784,523

02/23/2004

Allan J. Kuchinsky

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04/24/2009

AGILENT TECHNOLOGIES INC.

INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.

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LOVELAND, CO 80537

EXAMINER

LONG, ANDREA NATAE

ART UNIT

PAPER NUMBER

2176

NOTIFICATION DATE

DELIVERY MODE

04/24/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPOPS.LEGAL@agilent.com

| | | | |
|--|--|---|--|
| <p align="center">Advisory Action Before the Filing of an Appeal Brief</p> | <p>Application No. 10/784,523</p> | <p>Applicant(s) KUCHINSKY ET AL.</p> | |
| | <p>Examiner Andrea N. Long</p> | <p>Art Unit 2176</p> | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 8-29 and 51-58.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/DOUG HUTTON/
Supervisory Patent Examiner, Art Unit 2176

Continuation of 11. does NOT place the application in condition for allowance because:

The amendments to the claims raise new issues not previously considered by the Examiner. Specifically the adding of "the specific biological information is represented in local format objects in a canonical or abstract representation" changes the scope of the claim when interpreted as a whole.

With regard to claims 8, 12, 24-26, 52, and 58, Applicant asserts that Chung fails to teach a local format infrastructural layer configured to transform specific biological data.

The Examiner disagrees.

Chung teaches pulling data from different databases of different formats and transforming the data to a common format CPL, which is required by the current claim language. The Applicant is placing weight on limitations that have not been positively recited in the claim when arguing the difference between the prior art and the claimed invention such as "converting the data into local format that is standardized, so that it can be used across platforms and by plugging various programs and applications into access with such data". Additionally Applicant's Admitted Prior Art states that Visio is the leading general purpose diagramming product for building ip network diagrams from graphical building blocks.

With regard to claims 9, 15, 18, 21, 23, 29, 51, 53, and 54 the Applicant appears to assert that Infanti fails to teach the claim limitations due to Infanti not explicitly teaching wherein the stencils are representations of biological data or information and therefore cannot meet the limitation of the claims.

It should be noted that AAPA discloses that Visio which is the software tool that is being utilized in Infanti is used for building network diagrams from graphical building blocks. AAPA additionally teaches software for analyzing networks includes tools for inferring biological networks from experimental data in the context of biological networks, which should be taken into consideration when understanding the Examiner's rejection of the claim limitations with regard to Infanti. As to claim 17, Flowtronex teaches an overlay onto Visio that desing and assigns rules to Visio shapes.